

Consultation Information Notice

EU Proposals for Animal and Plant Health Package: Smarter rules for safer food

Background:

On 6th May 2013, the European Commission adopted a proposal to update, consolidate and simplify legislation relating to animal health, plant health and seeds and propagating materials, as well as two very important related horizontal measures to deal with official controls and the common financial framework in respect of food and feed. As it stands, the current body of EU legislation covering the food chain consists of almost 70 separate pieces of legislation. The package of reform proposes to reduce this down to five pieces of legislation.

The package of measures expect to provide a modernised and simplified, more risk-based approach to the protection of health and more efficient control mechanisms to ensure the effective application of the rules guiding the operation of the food chain.

The new EU legislation package consists of five proposals. These relate to:

- Rules on Official Controls for food, feed, animal health, plant reproductive material and plant protection products
- Plant Health Law to control plant pests
- Rules for Seeds and Propagating Plants
- Animal Health and Welfare Rules
- Common Financial Framework for Food & Feed

It is anticipated that the new streamlined legislation proposals would reduce red-tape on processes and procedures for farmers, breeders and food/feed business operators and to make it easier to carry on business.

The focus of this Consultation Information Notice relates specifically to the likely affects and changes involved with the first three proposals mentioned above, namely (a) Rules on Official Controls for food, feed, animal health, plant reproductive material and plant protection products, (b) Plant Health Law to control plant pests and (c) Rules for Seeds and Propagating Plants and how they may impact on the relevant stakeholders engaged in each area.

Rules on Official Controls:

Currently, the legislative framework for the organisation of official controls on the movement of plant and plant product is established through Directive 2000/29/EC. In parallel, Regulation (EC) No. 882/2004 provides the legislative basis for official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. This new proposal will replace both these items of legislation and aims to put in place a more robust, transparent and sustainable regulatory framework that is more “fit for purpose”.

The relevant provisions of the proposal are as follows:

- Much broader scope. The new Regulation will now cover plant health, plant reproductive material, animal by-products and concern the new rules on these areas when they are agreed;
- Greater emphasis on risk-based controls allowing cross-sector prioritisation;
- Improved transparency on official controls including publication of information on type/number/outcome/penalties imposed etc.;
- In addition the new Regulation will apply to the new rules on animal health and welfare when they are agreed. This will include rules relating to residues of veterinary medicines;
- Will apply common rules to all animals and goods of animal and plant origin entering and leaving the EU. These will be carried out at Border Control Posts;
- Use of a Common Health Entry Document (CHED) by operators for all animals and goods (including plants and plant products) subject to controls at Border Control Posts;
- Will commit to the development of integrated information management systems across the EU;
- Tougher penalties for non-compliance, which in general must be effective, proportionate and dissuasive. Where intentional violations of the provisions of the Regulation are discovered, financial penalties must “at least offset the economic advantage sought by through the violation”;
- There are other technical and logistical areas which will involve:
 - Rules on sampling and testing
 - Designation of Official Laboratories
 - Rules relating to the operation of Border Control Posts
 - Rules on official certification and attestation
 - Cooperation between Member States
 - Multi-annual Control Plans and Annual Reports.

Plant Health Law:

The objectives of this proposal are for better protection of EU plant health with less burden for operators along with compliance with international requirements, in particular the International Plant Protection Convention (IPPC), through modernised and streamlined rules leading to a transparent risk based approach to inspections.

The main provisions of the proposal are as follows:

- EU listing of Priority Pests to be introduced, requiring mandatory contingency plans, surveying and eradication policy by Member States;
- The definition of EU Protected Zones to be more closely aligned with International definition of a pest free area;
- Plant Passports to be harmonised in form and format and which will no longer be required to be issued to the end user but rather only Business to Business;
- New provisions on gathering information on plant commodities aiming to protect EU territory;
- Temporary measures to deal with plant pest issues can be taken on the basis of the precautionary principle while Any permanent measures require a full risk assessment;
- Registration of operators which will also require traceability at the level of operators;
- European Union expenditure proposed to support Member State measures against Priority pests as well as compensation to operators

- Provisions allowing the Commission to adopt detailed rules across a range of areas of official controls via delegated and implementing Acts.

Rules for Seeds and Propagating Plants:

The package aims to provide for more simplified and flexible rules for the marketing of seeds and other plant reproductive material with the aim of ensuring productivity, adaptability and diversity of Europe's crop production and forests and to facilitate their trading.

The relevant provisions of the proposal are as follows:

- The scope of the new Regulation would extend to cover not just currently listed species but also non-listed species, particularly in the ornamentals sector;
- A register of professional operators in this sector would be a regulatory requirement. This will be combined with the register of operators to be established under the 'Plant Health' regulation;
- Private gardeners can continue to buy any plant material and sell their seed in small quantities. Non-professional operators (e.g. private gardeners) can exchange seed with other private gardeners without falling under the rules of the proposed Regulation;
- For forestry, the Regulation incorporates, largely as a Chapter within the new document, most of the existing EU Directive on the marketing of Forest Reproductive Material;
- More flexibility for professional operators to carry out in some circumstances, technical examinations for registration of new varieties and sampling/analysis for certification under the supervision of the competent authority;
- Proportionate and sustainable rules on marketing of locally adapted material of Niche, Heterogeneous and Conservation populations or varieties are introduced;
- An European Union register of new varieties is proposed in addition to the existing national registers of varieties;
- Registration of new varieties in the Union register would be based on evaluation of value for sustainable use, including reduced input requirement, resistance to specific pests etc.;
- National registration would continue to provide for agronomic evaluation as at present, in addition to the optional provision concerning evaluation for sustainable use;
- The mission of the Community Plant Variety Office would be extended to provide for maintenance of the Union register and also assume a number of tasks in relation to varietal denominations and training/advisory/auditing activities. The name of the Office would be changed to European Agency on Plant Varieties (EAPV);
- Provisions are included allowing the Commission to adopt detailed implementing rules via delegated and implementing Acts.

Fees:

A major element of Rules on Official Controls proposals relates to the issue of the financing of official controls. Currently, mandatory inspection fees are only charged for official controls on certain businesses approved for processing meat, fishery products and milk and for the approval of feed establishments and for most controls at borders. There are also mandatory charges for expenses arising from additional control activities in cases of non-compliance.

The European Commission recognises that because of pressures on public finances, sufficient funding may not be available in all Member States to allow official controls to be carried out in a consistent and effective manner. For this reason, the proposals require that the relevant business sectors that are subject to official controls will have to pay for the full costs of these controls. In effect, the proposals maintain the current system of mandatory fees but will extend the rules to cover all official controls performed for agri-food business operators covering all aspects of the “agri-food chain”.

However, it is proposed that enterprises employing fewer than 10 persons and whose annual turnover or balance sheet does not exceed EUR 2 million (micro-businesses) will be exempted from the payment of mandatory fees.

The European Commission proposal allows either of two fee collection systems to be used in Member States:

1. A flat rate on the basis of the overall costs of official controls borne by the competent authorities over a period of time.
2. Fees calculated on the basis of the actual cost of each official control.

In addition, fees paid must include an element of bonus/malus, whereby a consistently compliant operator has fee payments reduced.

Next Steps:

It is anticipated that the new regime will not be in place before 2016.

In the intervening period, all stakeholders will have ample opportunity to provide feedback on the content of the package of measures and the resultant impacts. The European Commission intends to engage proactively with stakeholders through information seminars to provide concrete and accurate information on both the content and scope as well as the basis for the legislation. During the negotiation phase of both the overarching regulations and subsequent implementing rules, there will be further engagement with all stakeholders to ensure a balanced outcome.

Submissions:

Accordingly, the Department of Agriculture, Food and Marine invites you to submit comments in respect of the above issues or any other aspect of the proposed Regulations.

The closing date for receipt of submissions is Friday 27 September 2013 and can be made by emailing the following addresses:

- Submissions in relation to Plant Health Law to control Pest should be forwarded to the following email address only: Planthealthconsultation@agriculture.gov.ie
- Submissions concerning matters relating to Rules on Official Controls for the movement of produce including food, feed, plants & plant produce should be forwarded to: official_controlsconsult@agriculture.gov.ie
- Submissions in respect of the measures relating to seeds and propagating material can be sent to: PRMconsultation@agriculture.gov.ie

Further information:

In addition, the Food Safety Authority of Ireland (FSAI) has also invited comments on these proposals and further information can be found at:

http://www.fsai.ie/legislation/consultations/consultations_2013.html

The European Commission has established a dedicated portal providing information on the new proposals, including the full text of the proposed Regulations. It is available at:

http://ec.europa.eu/dgs/health_consumer/pressroom/animal-plant-health_en.htm